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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,593	01/16/2001	Toru Ishii	P/2007-76	4296
7590 07/20/2004			EXAMINER	
Steven I. Weisburd, Esq. Dickstein Shapiro Morin & Oshinsky LLP 1177 Avenue of the Americas 41 St Floor New York,, NY 10036-2714			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/760,593	Applicant(s) ISHII ET AL. <span style="float: right;">CS</span>	
	Examiner Phong H Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 and 11 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Falstrom (1,801,490).

Falstrom teaches a punching apparatus comprising a punch 9, a die 10 and fitting jigs 6. See Figs. 1-7. It is noted that the punch 9 and the die 10 are rotatable independently with respect to the moving part 1 and the supporting part 2 and are not rotatable relative to each other as they touch the fitting jigs. Each of the punch and the die has a plurality of planes formed by slots (7 and 8) to be fitted with datum planes of a fitting jig 6.

#### ***Claim Rejections - 35 USC § 103***

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falstrom (1,801,490) in view of France (4,610,185).

Falstrom teaches everything but does not teach a punched hole having a non-circular cross section. France teaches a punched hole having a non-circular cross section. See Fig. 1. Therefore, it would have been obvious to provide a variety of hole shapes

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such as non-circular cross sectional holes as taught by France so that manufactures can provide a wide range of punched hole shapes for their customers.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falstrom (1,801,490) in view of France (4,610,185).

Falstrom teaches a punching apparatus comprising a punch 9, a die 10 and fitting jigs 6. See Figs. 1-7. It is noted that the punch 9 and the die 10 are rotatable independently with respect to the moving part 1 and the supporting part 2 and are not rotatable relative to each other as they touch the fitting jigs. Each of the punch and the die has a plurality of planes formed by slots (7 and 8) to be fitted with datum planes of a fitting jig 6. Falstrom fails to teach a punched hole having a non-circular cross section.

France teaches a punched hole having a non-circular cross section. See Fig. 1.

Therefore, it would have been obvious to one skilled in the art to provide a variety of hole shapes such as non-circular cross sectional holes as taught by France so that manufactures can provide a wide range of punched hole shapes for their customers.

***Allowable Subject Matter***

5. Claims 10 and 11 are allowed.

***Response to Arguments***

6. Applicant's arguments filed on 05/03/2004 have been fully considered but they are not persuasive.

Regarding the Applicants' argument that Falstrom does not teach the punch and the die having planes to be simultaneously fitted with datum planes which are arranged in a single fitting jig, Examiner respectfully disagrees. Claims 1 and 9 do not claim that limitation. Thus, Falstrom reads on the Applicants' invention.

Regarding the Applicants' argument with respect to France, France teaches the shapes of the punch and the die but the fitting jig. Thus, the Applicants' argument is moot.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 703-305-4989. The examiner can normally be reached on Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

July 15, 2004



Allan N. Shoap  
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